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ABSTRACT

This newsletter on collective bargaining in higher education and the professions devotes nearly all this issue to an analysis of a recent Supreme Court decision ruling that licensed nurse practitioners are supervisors who are therefore excluded from collective bargaining protection. The "National Labor Relations Board, Petitioner versus Health Care and Retirement Corporation of America, Supreme Court of the United States, 92-1964(1994)" decision, written by Justice Anthony Kennedy, overturned the National Labor Relations Board's (NLRB) earlier determination. It found that, because Licensed Practical Nurses (LPN) engage in at least one of 12 statutory supervisory activities listed in the National Labor Relations Act, exercise independent judgment, and hold such authority in the interest of the employer, they are, in fact, supervisors. The newsletter reviews the possible ramifications of the decision, examines the background to the decision, and looks closely at definitions of a supervisor in other statutes and earlier cases. It also reexamines in particular an earlier case cited as key to this case's reasoning: "NLRB Versus Yeshiva." The dissenting opinion written by Justice Ruth Bader Ginsburg is also examined. The final page contains a short article on college faculty strikes at four universities, and an announcement of the 23rd Annual Higher Education Collective Bargaining Conference. (JB)

NEWSLETTER
NATIONAL CENTER FOR THE STUDY OF COLLECTIVE BARGAINING IN HIGHER EDUCATION AND THE PROFESSIONS

School of Public Affairs
Bernard M. Baruch College • City University of New York • Vol. 22, No. 3 • Sept/Oct 1994

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Supreme Court Rules that Licensed Practical Nurses are Supervisors, Under the National Labor Relations Act

NLRB, Petitioner V. Health Care and Retirement Corporation of America (HCR), Supreme Court of the United States, 92-1964 (1994)

Frank R. Annunziato

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In a decision which may unleash a whirlwind of changes in every industry throughout private sector labor-management relations in the United States, the Supreme Court on May 23, 1994, ruled that the Licensed Practical Nurses (LPNs) at the Heartland Nursing Home in Urbana, Ohio are supervisors, because they engage in at least one of the 12 statutory supervisory activities listed in Section 2(11) of the National Labor Relations Act (NLRA), exercise independent judgment, and hold such authority "in the interest of the employer." The 5-4 majority opinion, written by Justice Anthony Kennedy, joined by Justices Rehnquist, O'Connor, Scalia, and Thomas, confirmed a 1993 Federal 2d Circuit decision (987 F.2d 1256) which overturned the National Labor Relations Board's determination that these LPN's were not supervisors, as defined by the NLRA.

The Court also reversed that part of the NLRB's Decision and Order which ordered the reinstatement of four LPNs whom the Board had determined were terminated for protected concerted activities under the NLRA. In effect, the Supreme Court said that the employer could fire the four LPNs, because as supervisors they did not enjoy legal protection for engaging in any concerted actions for mutual aid or protection under the NLRA.

The case is significant, because in rejecting the NLRB's judgment that these nurses should be subject to NLRB protection, the Court may have established a precedent for other industries where employees, especially highly skilled professionals or technicians, who exercise minor supervisory functions are now regularly included in collective bargaining units.

Taken to its most logical extreme, if the mere exercise of one supervisory task, as enumerated in Section 2(11) of the Act is sufficient to exclude an individual from collective bargaining protections, as the Court seems to be saying, then perhaps recent efforts in American industry to decentralize supervisory and managerial authority could be creating a workforce of supervisors who will not be able to engage in protected collective bargaining activities.

Justice Kennedy, anticipating criticism that the decision can be extended beyond health care, specifically limited his findings to health care cases.

> Because the Board's interpretation of 'in the interest of the employer' is for the most part confined to nurse cases, our decision will have almost no effect outside that context. Any parade of horribles about the meaning of this decision for employees in other industries is thus quite misplaced; indeed, the Board does not make that argument.

Even if Justice Kennedy is correct and this decision is limited only to the health care industry, its impact could be staggering upon efforts to organize nursing and convalescent homes where nurses, often

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times LPNs, exercise a modicum of supervisory authority over other nurses and over nurses aides. For unions like SEIU, 1199, UFCW, AFT, AFSCME, and ANA, the decision could have a devastating impact on already unionized health care facilities, if employers decide to eliminate their unions, just as many private sector colleges and universities successfully accomplished in the aftermath of the 1980 Yeshiva decision.

For the higher education collective bargaining community, this Supreme Court decision, to quote that great legal scholar, Yogi Berra, is déjà vu all over again, because both Justice Kennedy's majority opinion and Justice Ruth Bader Ginburg's dissent (joined by Justices Blackmun, Stevens, and Souter) liberally reference the 1980 Supreme Court's NLRB v. Yeshiva 444 U.S. 672 decision. Justice Kennedy seeks to show similarities between the present case and NLRB v. Yeshiva, while Justice Ginburg seeks to show how Yeshiva actually allows the nurses in HCR to be classified as protected employees under the Act.

Background

Health Care and & Retirement Corporation of America (HCR) operates a non-union nursing home in Urbana, Ohio. The Federal 2d Circuit decision, written by Judge Anthony Celebrezze, includes the following description of HRC's Heartland Nursing Home where the case first arose in 1989.

> HCR's nursing home in Urbana, Ohio, known as Heartland of Urbana, contains 100 beds and provides skilled long-term care for its residents. Heartland employs approximately 100 people. The Nursing Department is staffed by a Director of Nursing, an Assistant Director of Nursing, 13-15 Registered Nurses and LPNs (known as staff nurses), and 50 to 55 nurses aides. The nursing home is physically divided into two fifty-unit wings. During the day, each wing is staffed with one nurse and six aides. During the evening shift, there are one nurse and four aides per wing and at night, there is one nurse per wing and four or five aides on duty for the entire facility. The aides report directly to the staff nurse on duty. There is also a treatment nurse and a patient assessment nurse, whose duties, along with the Director of Nursing and Assistant Director of Nursing, are performed during normal business hours.

Beginning at the end of 1988 and extending into 1989, the labor-management relationship at the Heartland Nursing Home sharply deteriorated. Three LPNs sought a meeting with the home's administrator to discuss the situation. The Administrator refused to meet with them, stating that she was too busy. She instructed them to make an appointment for later in the week. Unhappy with this response, the LPN's drove to Toledo, Ohio to meet with HCR's Director of Human Resources and its Vice-President of Operations. A meeting took place between the nurses and these two upper-level managers. At the conclusion of the meeting, the Director of Human Resources agreed to investigate the nurses' complaints.

As a result of his investigation, the Director of Human Resources hired more nurses aides, increased nurses aides' salaries, and disciplined four nurses. He later terminated three of these nurses. His stated reason for the discipline was that these nurses had an "uncooperative attitude." Two of the three nurses who traveled to Toledo were disciplined; only one was not. HCR denied that the nurses' participation at the meeting with upper-management contributed to their termination.

In April 1989 Ruby Wells, one of the three terminated nurses, filed an unfair labor practice charge in which she claimed that the three nurses had been discharged for participating in activities protected by the National Labor Relations Act. On May 25, 1989, the NLRB issued a complaint alleging that HCR committed an unfair labor practice. Specifically, the complaint accused HCR of disciplining LPN's who were engaged "in concerted protected conduct for the purpose of collective bargaining and other mutual aid and protection in violation of Section 8(a)(1) of the Act."

A hearing was then conducted by a NLRB Administrative Law Judge (ALJ). HCR maintained that the nurses were not protected by the Act, because they were supervisors. HCR also averred that it acted for entirely lawful reasons. In a most curious decision, the ALJ ruled that the nurses were employees under the Act, but that HCR had not committed any unfair labor practices. Neither party was happy with this splitting of the baby; the NLRB's General Counsel filed exceptions disputing the lack of a finding of unfair labor practices. HCR filed cross-exceptions challenging the determination that the nurses were employees and not supervisors.

On May 21, 1992 the NLRB issued its Decision and Order. HCR had committed an unfair labor practice, the NLRB decided, and ordered the employer to cease and desist from engaging in unfair labor practices and to reinstate the nurses with back pay. As to the question of

supervisory status, the NLRB stated its agreement with the ALJ's finding that the staff nurses were employees, because their focus was upon the well-being of the home's residents, and not upon the other employees. HCR petitioned the Federal Second Circuit Court of Appeals to review the NLRB's Decision and Order. The NLRB also filed a cross-petition to enforce the Board's order.

What is a Supervisor?

In formulating its decision that these staff nurses did not meet the definition of employees under the NLRA, the Federal 2d District Court emphasized the distinction between employees and supervisors in the law. In 1947, Congress amended the NLRA for the first time to include specific reference to supervisory exclusions (to so-called Taft-Hartley Amendments). The new Section 2(11) defines a "supervisor" as:

> ...any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Over the years, the NLRB developed three tests to determine supervisory status under section 2(11):

1. The individual engages in any one of the activities specifically listed in Section 2(11);

2. The individual exercises such supervisory authority "in the interest of the employer and;

3. The exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

With respect to health care and nurses, the NLRB adopted these three tests in Beverley California Corp. v. NLRB, 970 F.2d 1548 (1992). In prior cases involving nurses, the NLRB had already reasoned that certain nurses should not be considered supervisors, under the second test stated above, because nurses work in the patients' interests, and not in the interest of the employer. Therefore, while a nurse may engage in one or more of the supervisory activities listed in Section 2(11), and while the performance of any such supervisory activity may involve the real exercise of independent judgment, the nurse cannot be considered a supervisor under the Act, according to the NLRB, because s/he is acting in the patient's interest, not the employer.

This NLRB argument had been specifically rejected by the federal courts in at least two prior cases, NLRB v. Beacon Light Christian Home, 825 F.2d 1076 (1987) and Beverly California Corp v. NLRB, 970 F.2d, 1548 (1992). Further, in Beacon Light the federal court held that the burden in proving employer status rested with the Board. Using these precedents, and based upon the facts of this case sub judice the Federal 2d District ruled that the LPNs at Heartland are supervisors, as defined by Section 2(11), because they assign and direct the nurses' aides to specific patients. Heartland's LPNs are also supervisors, because they must find replacements for nurses aides who fail to report to work and can offer overtime to other nurses aides to fill such vacancies. Heartland's LPNs may also assign and/or approve break and lunch periods for the nurses aides. The Court further reasoned that the staff nurses exercise of such supervisory authority involves the use of independent judgement and is undertaken "in the interest of the employer."

Finally, the 2d Circuit noted that Section 2(11) does not exclude the health care field and that it is up to Congress to carve out such an exception, "should Congress not wish for such nurses to be considered supervisors."

Yeshiva as a Precedent

The Supreme Court of the United States affirmed the Court of Appeals decision. Writing for the majority, Justice Anthony Kennedy struck down the NLRB's test for determining whether nurses are supervisors, i.e., the NLRB contention that nurses exercise independent judgment in supervisory activities in the interest of the patients...and not in their employer's interest. The Court remarked that the NLRB has created a "false dichotomy -- between acts taken in connection with patient care and acts taken in the interest of the employer." Following the reasoning of the Yeshiva decision, the Court said, "Since patient care is a nursing home's business, it follows that attending to the needs of patients, who are the employer's customers, is in the employer's interest." In Yeshiva, the NLRB had unsuccessfully argued to the Supreme Court that faculty members were not managerial, because their authority was "exercised in the faculty's own interest rather than in the interest of the university." In Yeshiva, the Court concluded that the

business of a university is education, just as the Court has now concluded in HCR that patient care is the business of the employer.

The Supreme Court in the two cases rejected the NLRB's claim that faculty members' are not managerial in Yeshiva and supervisory in HCR, because their employment duties are performed either in the interest of education (Yeshiva) or patient care (HCR). This is the most significant similarity between the two decisions; it is also potentially the most damaging to other industries. For years, the NLRB has allowed certain employees (leadpersons, strawbosses, setup persons, etc.) to be covered by collective bargaining, even if they performed certain supervisory duties. With this decision, despite Justice Kennedy's disclaimer, the parade of horribles may have indeed begun for all other areas in private sector collective bargaining where members of the bargaining unit also perform certain non-exclusionary supervisory duties.

There are two important dissimilarities, however, between Yeshiva and HCR. First, in Yeshiva the Supreme Court decided that faculty members under certain circumstances are managerial employees and therefore not subject to the provisions of the NLRA. In HCR, the issue was whether nurses, under certain circumstances, engaged in any exclusionary supervisory responsibilities, under Section 2(11) and therefore not subject to the provisions of the NLRA. Secondly, faculty members are professional employees while LPNs are technical employees under the NLRA. Of course, not all managerial or supervisory employees need be professional; the issue of professional status is only raised to point out a distinction between the two cases which Justice Ginsburg, in her dissent, will invoke to show the illogic of the majority decision.

A Specter from 1947

Justice Kennedy also traced the history of the supervisory exclusion in the evolving National Labor Relations Act. He pointed out that in 1947, the Supreme Court refused to carve out a supervisory exclusion in its Packard Motor Car v. NLRB, 330 US 485, 490 decision. In that case, the question before the Court was whether the Packard Motor Car Company foremen were entitled as a class to the protections of the NLRA. Packard is important as a precedent to Yeshiva and HCR. In addition, the dissenting opinion in Packard, written by Justice William O. Douglas, provided the legal and ideological basis for the establishment of the supervisory exclusion, Section 2(11) of the NLRA, in the Taft-Hartley amendments.

At the Packard Motor Car Company, some 1,100 foremen had formed an affiliate of the Foremen's Association of America and successfully sought a bargaining unit from the NLRB, distinct from the unit of production workers already represented by the United Auto Workers (UAW). The Company refused to bargain with the independent union and appealed the case to the federal courts, asserting that foremen were not employees under the NLRA.

In a 5-4 decision, the Court agreed with the NLRB that foremen have the right to form separate bargaining units under the Act. The key to the Court's reasoning is contained in the following excerpt:

> Even those who act for the employer in some matters, including the service of standing between management and manual labor, still have interests of their own as employees. Though the foreman is the faithful representative of the employer in maintaining a production schedule, his interest properly may be adverse to that of the employer when it comes to fixing his own wages, hours, seniority rights or working conditions. He does not lose his right to serve himself in these respects because he serves his master in others. And we see no basis in this Act whatever for holding that foremen are forbidden the protection of the Act when they take collective action to protect their collective interests.

Justice William O. Douglas delivered the dissenting opinion in Packard, joined by three other justices. Justice Douglas stressed that the Act distinguishes between employers and employees. He argued that all employees, in their normal business activities work in the interest of the employer and, on that basis alone, should not be excluded as supervisory. However, according to Justice Douglas, the Act "was dealing solely with labor relations" and excludes as employers "all those who acted for management not only in formulating but also in executing its labor policies." Justice Douglas allows that certain supervisors may indeed be appropriately covered by the NLRA.

> I have used the terms foremen and supervisory employees synonymously. But it is not the label which is important; it is whether the employees in question represent or act for management on labor policy matters. Thus one might be a supervisory employee without representing management in those respects. And those who are called foremen may perform duties not

substantially different from those of skilled workmen.

In arguing that the Act excluded many supervisors from its coverage, Justice Douglas was worried that if all supervisors and managers were allowed collective bargaining rights, American management could not rely upon the loyalty of any of its employees in labor relations matters. He was concerned that one possible effect of the Packard decision was to leave only the group of owners, shareholders, and corporate CEOs excluded from collective bargaining. For Justice Douglas, this would create an atmosphere of divided loyalty which would lead to greater antagonisms, rather than greater cooperation in labor relations.

Further, Douglas noted that throughout American history, supervisors and managers stood as obstacles to workers' efforts to organize unions. Hundreds of strikes and lockouts were caused by supervisors and managers who, acting on management's behalf, thwarted workers' efforts to form legitimate and independent unions. For Douglas, these historical facts meant that Congress had drafted the original 1935 Wagner Act to protect workers from supervisors and managers so that workers could form their own unions. The Act could not possibly be interpreted to encourage those same supervisors and managers who had prevented unionization and had caused strikes and lockouts from now building the exact kind of organizations they had once refused to allow for their employees just a few years earlier.

The Douglas dissent in Packard provided the legal foundation for the Republican-dominated Congress in 1947 to amend the National Labor Relations Act and to provide for the supervisory exclusion, Section 2(11). Following Justice Douglas's lead, Congress was careful to not deny NLRA protection to all individuals called supervisors. For example, the legislative history of the Taft-Hartley amendments clearly shows that Congress specifically allowed continued NLRB coverage to lower level supervisors (see NLRB v. Textron, Inc. a/k/a Bell Aerospace 85 LRRM 2952 (1974).

From 1947, the NLRB, in administrating Section 2(11) sought on a case by case basis to distinguish real supervisory authority exercised on behalf of the employer, from incidental supervisory authority, administered on behalf of some kind of standards by highly skilled professional or technical employees. Thus, in the health care field the Board asked whether decisions alleged to be managerial or supervisory were "incidental to" or "in addition to" the treatment of patients. The Board's approach to health care was specifically mentioned in Yeshiva as "accurately capturing the intent of Congress." The Board has routinely included as protected by the Act individuals who performed minor supervisory activities, incidental to their professional or technical responsibilities.

Justice Ginburg's Dissent

The dissenting arguments in HCR, written by the Court's newest Justice, Ruth Bader Ginsburg, seize upon this notion of the possible statutory inclusion of "strawbosses, leadpersons, or setup persons" in disagreeing with the Court's majority opinion. Justice Ginsburg agrees with the NLRB's belief that these nurses, highly skilled technical employees, engage primarily in the delivery of patient care services. Justice Ginsburg understands the distinction in the legislative history by which certain employees with minor supervisory authority, commonly known as "straw bosses," or "leadpersons," or "setup persons" were not thought of as supervisory exclusions by Congress in drafting Section 2(11). She supports the NLRB's case by case approach in determining supervisory status because:

> Through case-by-case adjudication, the Board has sought to distinguish individuals exercising the level of control that truly places them in the ranks of management, from highly skilled employees, whether professional or technical, who perform, incidentally to their skilled work, a limited supervisory role.

For Justice Ginsburg, the definition of supervisor is limited to "the front line of management....who owed management undivided loyalty." Employees with minor supervisory duties do not fall into this definition, because such minor authority is not exercised in the interest of the employer. Thus, the mere practice of one or more supervisory tasks, as enumerated in Section 2(11), is not sufficient, per se, to exclude someone as supervisory. It is also necessary, for Justice Ginsburg, to show that such supervisory authority is more than just incidental to an employee's professional or technical obligations.

Most ominously, Justice Ginsburg points out that although HCR does not involve professional employees because LPNs are considered technical employees, most professional employees have some minor supervisory authority, i.e., a lawyer over his/her secretary, a teacher over his/her teacher's aide, a doctor over his/her nurse. Congress has specifically said in the Taft-Hartley amendments that professionals have the right to collective bargaining. Under the dicta in the majority

opinion, however, the exercise of any minor supervisory authority would exclude most professionals from coverage under the Act! Justice Ginsburg writes:

> If possession of such authority and the exercise of independent judgment were sufficient to classify an individual as a statutory supervisor, then few professionals would receive the Act's protections, contrary to Congress' express intention categorically to include professional employees.

Justice Ginsburg cites a number of cases in which the NLRB has ruled that the minor supervisory duties exercised by professionals over other employees did not exclude them from NLRA protection. For example, in The Door, 297 NLRB 601, 601 (1990), the Board stated that "routine direction of employees based on a higher level of skill or experience is not evidence of supervisory status." In Detroit College of Business, 296 NLRB 318, 320 (1989), the Board ruled that professional employees, "frequently require the ancillary services of nonprofessional employees in order to carry out their professional not supervisory responsibilities." In Sav-On Drugs, Inc., 243 NLRB 859, 862 (1979), the Board allowed collective bargaining rights to managers who "do exercise discretion and judgment in assigning and directing clerks, but such exercise...falls clearly within the ambit of their professional responsibilities, and does not constitute the exercise of supervisory authority in the interest of the employer." In Marymount College of Virginia, 280 NLRB 486, 489 (1986), the Board rejected the classification of a catalog librarian as a supervisor, even though the librarian supervised technicians. In Youth Guidance Center, NLRB 1330, 1335 (1982), the Board refused to categorize senior supervising social workers and supervising social workers as exempt supervisors, because, "...the Board has carefully and consistently avoided the statutory definition of 'supervisor' to professionals who give direction to other employees in the exercise of their professional judgment which is incidental to the professional's treatment of patients and thus is not the exercise of supervisory authority in the interest of the employer."

Justice Ginsburg's point could not be clearer. If the majority' reasoning in HCR were extended to each of the cases cited above involving professional employees, the NLRB would have been forced to exclude these professionals, because they are statutory exempt supervisors. She writes, "The Court's opinion has implications far beyond the nurses involved in this case. If any person who may use independent judgment to assign tasks to others is a supervisor, then few professionals employed by organizations subject to the Act will receive its protections."

In must be remembered, however, that Justice Kennedy took great pain in his majority decision to limit his finding to the health care industry only. He denied that this decision would have any effects in other industries.

Yeshiva plays an entirely different role in Justice Ginsburg's analysis than the emphasis attributed to it by Justice Kennedy's majority opinion. For Justice Ginsburg the extensive power of the faculty over academic matters is head and shoulders distinguishable from the limited supervisory authority the LPNs exercised in HCR. Justice Ginsburg writes:

> The Yeshiva faculty, the Court stated, was pivotal in defining and implementing the employer's managerial interests; its 'authority in academic matters was absolute' and it 'determined ...the product to be produced, the terms upon which it will be offered, and the customers who will be served.' No plausible equation can be made between the self-governing Yeshiva faculty, on one hand, and on the other, the licensed practical nurses involved in this case, with limited authority to assign and direct the work of nurses' aides pursuant to professional standards.

In other words, the extremely limited supervisory authority granted to the LPNs at HCR could in no way match the absolute breadth of real managerial authority that the Court attributed to the Yeshiva faculty. The Court's exclusion of the Yeshiva faculty from collective bargaining protection was based on a perceived power to control the university which was not even claimed by HCR owners.

What's Next?

Through its Health Care and Retirement Corporation decision, the Court has made it clear to the NLRB that nurses who through their own independent judgment exercise any kind of supervisory authority over other nurses or nurses aides must be excluded from the protections of the NLRA. Of course, health care institutions can voluntarily recognize supervisory nurses, but this is unlikely, granted the historical antagonistic labor relations which has existed in that industry. The decision has raised a number of questions and

possibilities for the future of labor-management relations which cannot be answered at this time.

For example, Congress can amend the NLRA to allow supervisory nurses to engage in collective bargaining. In this regard, one must point out that it is now 14 years after the Yeshiva decision and Congress has yet to resolve that situation. However, President Clinton has created the Commission on the Future of Worker-Management Relations, chaired by former Secretary of Labor John Dunlop. This Commission is scheduled to recommend changes to the NLRA in 1995. Will the realities of an increasingly conservative Congress, however, jeopardize this attempt to change U.S. labor law?

For health care unions, like SEIU, 1199, UFCW, AFT, AFSCME, and ANA Health Care & Retirement Corporation could have a major and negative effect upon organizing, particularly nursing and convalescent homes, where charge nurses tend to exercise some supervisory authority, because of the limited number of staff members traditionally employed in these facilities. The decision could also be extended to private sector hospitals, where charge nurses also can have certain supervisory powers over others. And, will HCR also embolden currently organized nursing and convalescent homes, as well as hospitals, to attempt to eliminate or to diminish the size of their unions, as we saw throughout the 1980s at unionized private sector colleges and universities after the Yeshiva decision?

The times are different today. We are now in the 1990s, with a labor-backed Democratic President who has already appointed a majority of NLRB members, including its chair William Gould, a long-standing supporter of collective bargaining rights. How will the Gould NLRB react to attempts by health care institutions to follow similar scenarios that private colleges and universities undertook in the 1980s to rid themselves of faculty unions?

Finally, will other industries, despite Justice Kennedy's attempt to limit the scope of Health Care & Retirement Corporation to the health care industry only, seek to eliminate their "strawbosses, leadpersons, and setup persons" from collective bargaining rights? Will any professional who gives supervisory direction to his/her secretary be excluded under the NLRA's Section 2(11) as Justice Ginsburg has warned?

Has the parade of horribles truly begun or is the more appropriate metaphor for Health Care & Retirement Corporation the apprehension associated with a walk through an unkown neighborhood where one's fears may be out of proportion to the potentiality of the situation?

NUMBER OF NURSES IN THE UNITED STATES
1992*

1,800,000 - Registered Nurses (RNs)

659,000 - Licensed Practical Nurses (LPNs)

* Occupational Outlook Handbook 1994/95, U.S. Department of Labor (BLS), U.S. Government Printing Office: Washington, DC.

NURSES UNIONIZATION RATES
1993*

	Members of Unions	Represented by Unions
RNs	16.1%	19.0%
LPNs	15.1%	16.2%

* Table 13a in Barry Hirsch and David Macpherson. 1994. Union Membership and Earnings Data Book. BNA: Washington. DC.

FACULTY STRIKES AT FOUR COLLEGES AND UNIVERSITIES

As the 1994-1995 academic year began, professors set up picket lines at three colleges and universities. In Michigan, the faculty at two public sector institutions, Oakland University and Wayne State University were out on strike. Separate chapters of the AAUP are the collective bargaining agents for the faculty at these Michigan institutions. The AAUP represents approximately 430 professors at Oakland University and 1,475 at Wayne State University.

In New York, a local of the AFT struck for six days at the Brooklyn Center of the private sector Long Island University (LIU) on behalf of 200 faculty members in a salary dispute.

On October 11, a fourth faculty strike began: a different AFT local (the C.W. Post Collegial Federation) at the C.W. Post Center of LIU walked out on behalf of 350 professors. According to newspaper accounts, the primary issue in dispute was faculty work load. The October 1994 edition of the NY Times reported the following:

> Classes returned to normal today at the C.W. Post campus of Long Island University as faculty members ended a brief walkout, but the dispute over a new contract continued.
>
> Faced with the threat of mass dismissals and the loss of medical insurance and other benefits, the faculty voted 94-34 late last week to end a three-day strike, and ceased their picketing on Friday.

ANNOUNCING

23RD ANNUAL HIGHER EDUCATION COLLECTIVE BARGAINING CONFERENCE

The National Center has set April 24-25, 1995 as the dates for its Twenty-Third annual Higher Education Collective Bargaining conference. The conference will be held at the Doral Inn in New York City. We will send you further information by the beginning of February.

Some of the topics which will be featured at the Twenty-Third Annual conference's plenary sessions and workshops include: The Internationalization of Higher Education, Hi Tech and Distance Learning Issues in Collective Bargaining, Owner and Player Militancy in Professional Sports, The Funding Crisis in Public Higher Education, Labor Law Reform, The Investigation of Sexual Harassment Complaints: Getting to the Truth, Threats to Faculty Tenure, and a Legal Update of Judicial Decisions in Higher Education Employment Law.

We have already received acceptances from a number of nationally and internationally prominent, interesting, and provocative speakers. However, we will not announce their names until the entire program is finalized.

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SAVE THE DATES

NCSCBHEP
23rd ANNUAL CONFERENCE

April 24-25, 1995
New York City